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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. AC-2005-40

13 CHRISTOPHER GRUYS
14 219 Burgundy Road
Healdsburg, California 95448

ACCUSATION

15 Certified Public Accountant Certificate
16 No. CPA 21377,

17 Respondent.
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19 Complainant alleges:
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21 **PARTIES AND JURISDICTION**

22 1. Complainant Carol Sigmann brings this Accusation under the authority of Section
23 5100 of the Business and Professions Code, solely in her official capacity as the Executive
24 Officer of the California Board of Accountancy, Department of Consumer Affairs.

25 2. On or about April 25, 1975, the California Board of Accountancy issued Certified
26 Public Accountant Certificate Number CPA 21377 to Christopher Gruys, Respondent. The
27 Certificate, now subject to renewal every two years (on July 1 of even-numbered years) pursuant
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1 to Code Section 5070.5, had been renewed, at some time on or before March 1989¹, in an
2 “active” status until its expiration on June 30, 1990. Since that date, the Board’s records have
3 reflected the status of the certificate as follows:

4 A. Expired (and not valid for practice) from July 1, 1990 through July 17,
5 1990, then renewed in an “active” status from July 18, 1990 through June 30, 1992.

6 B. Renewed “active” from July 1, 1992 through June 30, 1994.

7 C. Expired from July 1, 1994 through July 17, 1994, then renewed in an
8 “active” status from July 18, 1994 through June 30, 1996.

9 D. Expired from July 1, 1996 through July 28, 1996, then renewed in an
10 “active” status from July 29, 1996 through June 30, 1998.

11 E. Expired from July 1, 1998 through July 23, 1998, then renewed in an
12 “active” status from July 24, 1998 through June 30, 2000.

13 F. Expired from July 1, 2000 through August 9, 2000, then renewed in an
14 “active” status from August 10, 2000 through June 30, 2002.

15 G. The Certified Public Accountant Certificate was renewed in an “inactive”²
16 status from July 1, 2002 through July 1, 2004, when it expired. The certificate has not been
17 renewed and is currently in a “delinquent” status.

18 3. This Accusation is brought before the California Board of Accountancy (Board),
19 Department of Consumer Affairs, under the authority of the following laws. All section
20 references are to the Business and Professions Code unless otherwise indicated.

21 4. Section 5100 of the Business and Professions Code provides, in relevant part, that,
22 after notice and hearing the board may revoke, suspend or refuse to renew any permit or
23 certificate granted, or may censure the holder of that permit or certificate, for unprofessional
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25 1. The Board’s records were transferred to the DCA’s centralized computer system in
26 March 1989 and, as a result, the underlying documentation related to the license history is
27 unavailable prior to that date.

28 2. The renewal without required continuing education results in a current but “inactive”
license, which does not authorize the practice of public accountancy (Board Rule 80).

conduct which includes, but is not limited to, one or any combination of the causes specified therein, including:

- (c) Dishonesty...in the practice of public accountancy.
- (g) Willful violation of the Accountancy Act or any rule or regulation promulgated by the board under the authority granted under this chapter.³
- (j) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

5. Requirement for Licensure. Code Section 5050 provides that no person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board. Code Section 5051 defines the practice of public accountancy within the meaning and intent of the Accountancy Act.⁴

6. Required Observance of Rules. Board Rule 5 requires a licensee to observe Board rules if the licensee is engaged in the types of activities performed by certified public accountants or who renders other professional services which include, but are not limited to, bookkeeping, financial planning, investment planning, tax services and management services.

7. Required Response to Board Inquiry. Board Rule 52 requires a licensee to respond to an inquiry by the board, including making available all files, working papers and other documents requested. A licensee is required to provide true and accurate information and

3. Board rules or regulations cited herein are codified in the California Code of Regulations and will be referenced simply as a Board Rule, e.g., Cal. Code Regs., tit.16, § 5 will be referenced herein as Board Rule 5.

4. The definition of the practice of public accountancy includes (but is not limited to) "holding out" (Section 5051(a)); maintaining an office for the transaction of business (Section 5051(b)); offering to prospective clients to perform services (Section 5051(c)); In general or as an incident to that work, renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data (Section 5051(e)); preparing or signing, as the tax preparer, tax returns for the client (Section 5051(g)); and providing management consulting services to clients (Section 5051(i)).

1 responses to questions and other requests, and (shall) not take any action to obstruct any Board
2 inquiry or investigation. Failure to respond to a written inquiry within thirty days constitutes a
3 cause for discipline under Code Section 5100(g).

4 8. Cost Recovery. Code Section 5107 authorizes the Board's recovery of certain
5 costs which result from the investigation and prosecution of specified violations of the
6 Accountancy Act. Section 5107(a) of the Code provides in pertinent part that the executive
7 officer of the Board may request the administrative law judge, as part of the proposed decision in
8 a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of
9 unprofessional conduct to pay to the Board all reasonable costs of investigation and prosecution
10 of the case, including, but not limited to, attorneys' fees incurred prior to the commencement of
11 the hearing.⁵ A certified copy of the actual costs, or a good faith estimate of costs signed by the
12 Executive Officer, constitute prima facie evidence of reasonable costs of investigation and
13 prosecution of the case.

14 9. Code sections 118(b) and 5109 provide in pertinent part that the suspension,
15 expiration, cancellation, or forfeiture of a license issued by the Board shall not, deprive the Board
16 of its authority to investigate, or to institute or continue a disciplinary proceeding against, a
17 licensee upon any ground provided by law, or to enter an order suspending or revoking the
18 license or otherwise taking disciplinary action against the licensee on any such ground.

19 10. Code section 5000.1 provides as follows: "Protection of the public shall be the
20 highest priority for the California Board of Accountancy in exercising its licensing, regulatory,
21 and disciplinary functions. Whenever the protection of the public is inconsistent with other
22 interests sought to be promoted, the protection of the public shall be paramount."

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27 5. Costs incurred prior to January 1, 2005, are eligible for recovery only if they are related
28 to causes of action specified in Code Section 5017 prior to the amendment effective January 1,
2005.

1 **FOR CAUSES FOR DISCIPLINE**

2 **First Cause for Discipline - Practice Without License**

3 (Bus. & Prof. Code Section 5050/5100((g))

4 11. Respondent is subject to disciplinary action in that he practiced public
5 accountancy without proper authority to do so. The circumstances follow:

6 A. Respondent applied for, and received, an inactive license for the renewal
7 period July 1, 2002 through July 1, 2004, demonstrating an understanding that he was not thereby
8 authorized to practice public accountancy as defined in Business and Professions Code Section
9 5051. As set forth in paragraph 2 above, his license was not thereafter renewed and is in a
10 delinquent status.

11 B. In response to a Board investigative inquiry, Respondent represented to the
12 Board that "from 2002 until now (June 2004), I have prepared tax returns principally and have
13 given management advice. I have been signing tax returns prepared using the 'J.D.' [law degree]
14 after my name. Over the last couple of years I have been slowly 'retiring' through attrition."

15 C. Notwithstanding his representations to the contrary, Respondent has in fact
16 practiced public accountancy during the period when his license was inactive, that is, not valid
17 for practice. For example, Respondent signed a 2002 Form 1120S form, which he prepared for
18 filing with the Internal Revenue Service, with the CPA designation. Respondent billed clients,
19 performed services requiring licensure, and "held out" as a CPA.

20 D. Respondent testified in another proceeding that his business in 2003
21 consisted of tax return preparation, payroll tax returns, "some bookkeeping-type of things" and
22 consulting work.

23 12. Incorporating by reference the allegations in paragraph 11, Respondent's
24 certificate is subject to discipline under Code sections 5050 and 5051 in conjunction with Code
25 section 5100(g) in that Respondent practiced public accountancy without a valid license to do so.

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February 25, 2005) for information regarding its investigation of his unlicensed practice.

OTHER MATTERS

18. Pursuant to Code section 5107, it is requested that the administrative law judge, as part of the proposed decision in this proceeding, direct respondent to pay to the Board all reasonable costs of investigation and prosecution in this case, including, but not limited to, attorneys' fees.

19. Code Section 5000.1 is relevant to the penalty determination in this matter. The Code Section provides as follows: "Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking, suspending, or otherwise imposing discipline on Certified Public Accountant Certificate Number CPA 21377, issued to Christopher Gruys.

2. Ordering Christopher Gruys to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: August 23, 2005


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant